



DEPARTMENT OF THE ARMY
UNITED STATES ARMY LEGAL SERVICES AGENCY
9275 GUNSTON ROAD
BUILDING 1450
FORT BELVOIR, VA 22060-5546
February 5, 2013

REPLY TO
ATTENTION OF:

Contract and Fiscal Law Division
Procurement Fraud Branch

**CERTIFIED MAIL
RETURN RECEIPT
REQUESTED**

Robert Schroeder, President
All Points International Distributors, Inc. (API)
74 Prospect Place
Hillsdale, New Jersey 07642-2049

SUBJECT: Notice of Debarment

Dear Mr. Schroeder:

This letter is to advise you that pursuant to Section 9.406 of the Federal Acquisition Regulation, I have decided to debar you, and your companies, All Points International Distributors, Inc. (API), and Hercules Global Logistics (HGL), effective this date and continuing until September 20, 2015. The enclosed memorandum sets out the factors that I considered in arriving at this decision. Enclosures to the memorandum, which were previously provided to you or by you, are not included.

Debarment is effective throughout the Executive Branch of the United States Government, and extends to all divisions or other organizational elements of the contractor. Agencies will not solicit offers from, award contracts to, renew or extend existing contracts with, or consent to subcontracts with a debarred contractor, unless the acquiring agency's head or a designee determines in writing that there is a compelling reason to do so. Debarred contractors also are excluded from conducting business with the Government as representatives or agents of other contractors and from acting as individual sureties. Further, debarred contractors are excluded from non-procurement transactions with the Government, such as grants, cooperative agreements, scholarships, fellowships, contracts of assistance, loans, loan guarantees, subsidies, insurance, payments for specified use, and donation agreements.

Sincerely,

A handwritten signature in black ink, appearing to read "Uldric L. Fiore, Jr.", is located below the "Sincerely," text.

Uldric L. Fiore, Jr.
Army Suspension and Debarment Official



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REPLY TO
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JALS-KFLD-PF

5 February 2013

DECISION MEMORANDUM

SUBJECT: Debarment of Robert Schroeder, All Points International Distributors, Inc., and Hercules Global Logistics (respondents)

1. Findings of Fact.

a. Contract Number W91B4M-11-P-0218 (Generators-Shelter Tents Contract)

(1) All Points International Distributors, Inc. (API) is a New Jersey-based manufacturer of "portable shelters, pre-engineered tension structures, sunshade canopies, aircraft hangars, and multipurpose tents." Mr. Schroeder serves as the President of API; and James Cipolla served as Vice-President. (Encls 1-2)

(2) Hercules Global Logistics (HGL) is a subsidiary of API, specializing in the "rapid deployment of full-service housing facilities", including modular, work force, disaster recovery, ISO containers, and custom base-camps. Mr. Schroeder serves as the Chief Executive Officer (CEO) of HGL. (Encls 5-6)

(3) On 18 August 2011, the Kabul Regional Contracting Center (KRCC) awarded contract number W91B4M-11-P-0218 to API to deliver and install two 30 x 50 foot shelter tents, two 40 x 40 foot shelter tents, two 120 kilowatt generators, and one 144 kilowatt generator at Forward Operating Base (FOB) Blackhorse, and one generator at Bagram Airfield. The contract price was \$649,850. (Encl 7)

(4) ARZ Logistical Company-Afghanistan (ARZ) is an Afghan-owned company located in Kabul Afghanistan. Shawn Naseri serves as the company's Vice President. On 5 October 2011, ARZ entered into a subcontract with API to supply and install the generators and shelter tents under contract number W91B4M-11-P-0218. (Encl 8) As part of the agreement, Mr. Schroeder executed a "Personal Guaranty", promising ARZ "full and prompt payment when due", plus 25 percent interest on the amount stated for 30 day terms. Mr. Schroeder also directed API's attorney, Robert J. Mancinelli, to withhold sums paid by the U.S. government under contract number W91B4M-11-P-0218 in order to pay ARZ for work completed. (Encl 8)

(5) On 5 October 2011, Mr. Cipolla issued a purchase order to ARZ to ship the four generators. The purchase order included the statement "Plus 25 % - All due within 30 days of delivery." (Encl 11) As collateral to the purchase order, Mr. Schroeder signed an "Assignment of Interests in Payments Due under the Contract", assigning API's interests in U.S. government

payments under contract number W91B4M-11-P-0218 to ARZ. On 7 October 2011, Mr. Naseri accepted the assignment on behalf of ARZ. (Encl 12)

(6) On 10 October 2011, ARZ delivered and installed all four generators, and forwarded an invoice to API for payment in the amount of \$156,500. On 13 November 2011, ARZ forwarded a second invoice to API payment in the amount of \$21,500 for installing the tents. (Encls 13 and 14)

(7) On 1 and 16 November 2011, the U.S. Government made two payments to API under contract number W91B4M-11-P-0218 - one in the amount of \$475,000 and the other in the amount of \$142,357.50, bringing the total paid to API to \$617,357.50. (Encls 15, 16)

(8) In November 2011, Mr. Naseri sent eight requests to Mr. Cipolla to make payment on the subcontract. Although Mr. Cipolla promised several times to make payment, API failed to make payment within in 30 days of performance as required under the subcontract. (Encl 17)

(9) From November 2011 to April 2012, Mr Schroeder made representations to ARZ and to the assigned Special Agent for the Special Inspector General for Afghanistan Reconstruction (SIGAR) that payments had been wired to ARZ, when in fact no payments were made. (Encls 20-23)

(10) By May 2012, six months after payment was due, API had made representations to make payments on at least six payment schedules with specific payment dates that API had proposed to ARZ, SIGAR and KRCC. (Encls 17, 18, 20, 22, 23, and 26)

(11) By 13 June 2012, API had paid ARZ only \$46,000, reducing the debt to ARZ from \$209,349 to \$158,692. (Encl 36) (This amount included a 3% late fee which ARZ owed its supplier and was much less than the 25% interest provided for in the Personal Guaranty) (Encls 22-25)

b. Contract Number H92237-12-C-0059 (Large Area Maintenance Shelter Contract)

(1) On 30 November 2011, Combined Joint Special Operations Task Force-Afghanistan (CJSOTF-A) awarded contract number H92237-12-C-0059 to Aqra Rahimi Construction and Supply Company (ARCSC) for the delivery and installation of a 105x150 Large Area Maintenance Shelter (LAMS), site preparation, and installation of a reinforced concrete pad. (Encl 27) A LAMS is a large tent structure used by U.S. military forces throughout Afghanistan. (Encl 28) ARCSC received notice to proceed on the contract on 3 December 2011 and to complete the installation by 16 February 2012. (Encl 29)

(2) On 26 December 2011, ARCSC subcontracted with API to deliver the LAMS for the contract price of \$247,500. On 30 January 2012, ARCSC paid API in full for the LAMS pre-delivery. (Encls 30-31)

(3) By April 2012, API had failed to deliver the LAMS. As a result, ARCSC filed a complaint with SIGAR. (Encl 32)

(4) On 31 May 2012, SIGAR hand-delivered a show cause letter to Mr. Schroeder and Mr. Cipolla, requesting API to respond to the allegations that they failed to deliver the LAMS to ARCSC, and failed to pay ARZ for the generators and shelter tents they had delivered. (Encl 33) In its response letter, dated 25 June 2012, API represented that it would pay off the remaining balance owed to ARZ with two scheduled payments, one on 22 July 2012 and the other, on 29 July 2012. However, API failed to make payment, as promised. (Encls 37 and 38) As to the LAMS, because API had failed to deliver the LAMS on time (16 Feb 12), the CJSOTF-A contracting office removed the LAMS from the contract, because it could no longer wait for API to deliver the structure. (Encls 43 and 44) In place of the LAMS, the contracting office directed ARCSC to erect government provided Alaskan tents. (Encl 43) Consequently, on 20 June 2012, ARCSC notified API that it canceled the LAMS contract. (Encl 44)

c. Criminal Complaint and Indictment Filed Against Robert Schroeder for Writing Bad Checks. On 3 August 2012, the Boro of Hillsdale filed a criminal complaint against Mr. Schroeder for writing bad checks in excess of \$75,000 from his business accounts to two investors. In response to the charge, Mr. Schroeder admitted he made a mistake and apologized. (Encl 50) In December 2012, New Jersey Attorney General's Office indicted Mr. Schroeder for writing bad checks.

d. Civil Lawsuits Filed Against Robert Schroeder and API.

(1) On 17 February 2012, Fred's Studio Tents and Canopies filed a complaint against API and Robert Schroeder in the U.S. District Court, District of New Jersey, for failing to make payments on several orders for custom made tents, totaling \$270,884.64. On 20 March 2012, the Clerk of the Court entered default against the defendants for failure to answer the complaint. (Encl 51)

(2) On 11 May 2012, ARCSC filed a complaint in the U.S. District Court, District of New Jersey, against API for breach of the LAMS contract, and seeking compensatory and punitive damages against API, including \$247,500 owed to ARCSC. (Encl 48)

e. Suspension.

(1) On 20 September 2012, I suspended the respondents for failing to perform on the ARZ and ARCSC government contracts. On the ARZ contract to deliver shelter tents and generators

in Afghanistan, respondents failed to pay \$158,692 owed to ARZ for making the delivery. On the second contract to deliver the LAMS shelter in Afghanistan, respondents failed to make timely delivery of the shelter, causing cancellation of the contract, and failed to return a \$247,500 advance payment made by ARCSC on the contract. I also took in consideration the criminal and civil actions filed against respondents. (Encl 56)

(2) On 17 October 2012, 1 November 2012, and 5 November 2012, counsel for respondents submitted matters in opposition to the suspension. The written materials revealed that in accounting for the \$622, 973.50 in U.S. funds paid to Mr. Schroeder on the generators-shelter tents contract, Mr. Schroeder decided not to honor his "Personal Guarantee" and his "Assignment of Interests in Payments" to use those funds to pay the balance of \$158,692 owed to ARZ. Instead, Mr. Schroeder used those funds to purchase inventory and pay other loans. (Encl 57) Although, nominally, this diversion of funds was to the benefit of his company, as the owner of the business, the ultimate benefit was personal to Mr. Schroeder. In addition, the written materials submitted revealed that Mr. Schroeder was not living up to his settlement agreements. In the settlement agreement to pay \$192,147.07 owed to Fred's Studio Tents, Mr. Schroeder failed to make the first installment payment of \$20,000 due on 20 November 2012. Similarly, on the settlement agreement to pay \$247,500 owed to ARSCS, he failed to make the first installment payment of \$19,166.66 due on 25 November 2012. Finally, the materials submitted included an affidavit by James Cipolla, certifying that that he had no ownership interest in API and served only as an employee. (Encl 58)

f. Proposed Debarment.

(1) On 28 November 2012, I terminated the suspension of James Cipolla based on evidence showing that he did not make the decisions that resulted in respondents current financial liabilities. I proposed the other respondents for debarment. This was based on evidence showing (a) Respondents wrongfully decided not to honor its written agreement to pay \$158,692 owed to its subcontractor, ARZ; or repay the \$247,500 advance payment owed to ARCSC. Instead, respondents decided to use the approximate \$870,000 received on the ARZ and ARCS government contracts to purchase inventory and pay other debts; and (b) Respondents failed to submit a specific remedial action plan to resolve the outstanding debts owed to ARZ and ARCSC, and other creditors, including \$192,147.07 owed to Fred's Studio Tents. (Encls 59-60)

(2) On 6 December 2012, Mr. Schroeder and his counsel made an oral presentation, opposing debarment. At that time, Mr. Schroeder proposed that if the current suspension were lifted, he could enter into new Army and FEMA contracts, and have his retained Monitor use the proceeds earned from the new contracts to pay off his old debts. Although I requested respondents to submit a specific remedial action plan, providing a breakdown on projected earnings and debt payments, they failed to do so. Furthermore, media reports indicated that other creditors have filed several lawsuits against Mr. Schroeder for other outstanding debts of over

\$9,000,000. This included allegations that he owed to \$3.6 million on 10 individual loans; \$2.5 million owed to Oritani Bank (involving 7 lawsuits); and \$2.5 million owed to Atlantic Stewardship Bank. Although I requested Mr. Schroeder to provide me with a complete disclosure/accounting of all his outstanding debts and lawsuits, he refused to do so, claiming "pending litigation." (Encl 61)

3. Regulatory Basis for Debarment.

a. FAR 9.403 provides that a "contractor" means any individual or other legal entity that directly or indirectly (e.g., through an affiliate), submits offers for or is awarded, or reasonably may be expected to submit offers for or be awarded a government contract, including a contract for carriage under government or commercial bills of lading, or a subcontract under a government contract. Alternatively, a "contractor" is one that conducts business or reasonably may be expected to conduct business with the government as an agent or representative of a contractor.

b. FAR 9.406-2(a) provides that a contractor may be debarred based on conviction of or civil judgment for:

(1) Commission of fraud or a criminal offense in connection with (i) obtaining, (ii) attempting to obtain, or (iii) performing a public contract or subcontract;

(3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws or receiving stolen property;

(5) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a government contractor.

c. FAR 9.406-2(b) provides that a contractor may be debarred, based on a preponderance of the evidence, for a "history of failure to perform, or of unsatisfactory performance of, one or more contracts."

d. FAR 9.406-2(c) provides that a contractor may be debarred for any cause of so serious or compelling a nature that it affects the present responsibility of a government contractor or subcontractor.

e. FAR 9.406-5 (a) provides that the fraudulent, criminal, or other seriously improper conduct of any officer, director, shareholder, partner, employee, or other individual associated with a contractor may be imputed to the contractor when the conduct occurred in connection with the individual's performance of duties for or on behalf of the contractor, or with the

contractor's knowledge, approval, or acquiescence. The contractor's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

f. FAR 9.406-1(b) provides that debarment may be extended to affiliates of a contractor if they are specifically named and given written notice of the proposed debarment and an opportunity to respond. FAR 9.403 provides that business concerns or individuals are affiliates if, directly or indirectly, either one controls or can control the other or a third party controls or can control both.

g. FAR 9.406-1(a) provides that it is the debarring official's responsibility to determine whether debarment is in the government's interest. Before arriving at any debarment decision, the debarring official should consider the seriousness of the contractor's acts or omissions, remedial measures, and mitigating factors as set forth in this subsection

4. Conclusions.

a. Robert Schroeder, API, and HGL (respondents) are "contractors" as defined under FAR 9.403. Based on their experience in contracting with the U.S. government to provide products and services (shelter tents, generators etc.) in support of U.S. overseas contingency operations, it can reasonably be expected that in the future they would submit offers for, or be awarded, a government contract, or a subcontract under a government contract; or alternatively, seek to conduct business with the U.S. government as an agent or representative of a contractor providing, or seeking to provide, the same or similar products and services.

b. A preponderance of evidence reveals that respondents demonstrated a history of willful failure to perform under the terms of their government contracts, and engaged in acts of serious misconduct, as to affect their present responsibility as government contractors and to warrant their debarment under FAR 9.406-2(b) and (c):

(1) First, on the generators-shelter tents contract, although the U.S. Government had paid respondents \$622, 973.50 on this contract, Mr. Schroeder decided not to honor his "Personal Guarantee" and "Assignment of Interests in Payments" to his subcontractor, ARZ, to use those funds to pay the balance of \$158,692 owed to ARZ. Instead, Mr. Schroeder used those funds to purchase inventory and pay other debts. The \$158,692 owed to ARZ remains unpaid.

(2) Second, on the LAMS contract, although the prime contractor, ARCSC, had pre-paid respondents the full contract price of \$247,500 to deliver the LAMS by 16 February 2012, they failed to make timely delivery, causing the U.S. to cancel the contract at a loss to ARCSC. The \$247,500 advance payment owed to ARCSC remains unpaid.

(3) Third, civil and criminal actions have been filed against respondents: (a) The New Jersey Attorney General's Office has indicted Mr. Schroeder for writing approximately \$400,000

in bad checks from his business accounts; (b) On 20 March 2012, the Clerk of the U.S. District Court, District of New Jersey, entered default against Robert Schroeder and API for failing to answer the complaint filed by Fred's Studio Tents and Canopies and for failing to make payments on several orders for custom made tents, totaling \$270,884.64; and (c) On 11 May 2012, ARCSC filed a complaint against API in the U. S. District Court, District of New Jersey, seeking both compensatory and punitive damages against API for failing to deliver the LAMS or pay back the \$247,500 advance payment owed to ARCSC.

(4) Fourth, respondents failed to provide a specific remedial action plan to resolve all its outstanding debts. Although I requested respondents to demonstrate their present responsibility by providing a specific remedial action plan with a breakdown on projected earnings and debt payments, they failed to do so.

(5) Fifth, respondents failed to provide a complete disclosure of all its outstanding debts. In response to media reports, claiming that other creditors have filed several lawsuits against Mr. Schroeder for outstanding debts of over \$9,000,000, I requested Mr. Schroeder to provide me with a complete disclosure/accounting of all his outstanding debts and lawsuits. However, he refused to do so, claiming "pending litigation." (Encl 61)

5. Decision. Based on the foregoing findings of fact, conclusions, and the administrative record, I have decided that the debarment of respondents is in the public interest and for the Government's protection. In determining the appropriate debarment period, I have carefully considered the factors cited in FAR 406-1(a) and respondents period of suspension. Accordingly, Robert Schroeder, All Points International Distributors, Inc., and their affiliate, Hercules Global Logistics, are debarred for a period of three (3) years, effective this date, and continuing until 20 September 2015 with credit given for their period of suspension from 20 September 2012 to 4 February 2013.



Uldric L. Fiore, Jr.

Army Suspension and Debarment Official

61 Encls

1. API Website
2. API CCR Registration
3. API Testimonials
4. API Military Brochure
5. HGL Website
6. HGL Testimonials
7. Contract W91B4M-11-P-0218

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8. API Personal Guaranty, 5 Oct 11
9. ARZZCC CCR Registration
10. Schroeder Memo, 5 Oct 11
11. API PO# API GENS BLKHRS, 5 Oct 11
12. Assignment of Interests, 7 Oct 11
13. ARZZCC Delivery Receipts, 9 & 15 Oct 11
14. ARZZCC Invoice #s 195 & 199
15. API Invoice #729586-A
16. Proof of Payment to API, 1 & 16 Nov 11
17. Emails between Naseri and Cipolla, Nov 11
18. ARZZCC Emails to McFall, Dec 11 – Jan 12
19. ARZZCC Complaint to SIGAR
20. SIGAR Email to API, 27 Jan 12
21. Ms. Kolton Profile
22. API Email to Kolton, 12 Feb 12
23. API Email to ARZZCC, 18 Feb 12
24. Afghanistan AG Summons, 12 Apr 12
25. ARZZCC Invoice to API, 17 Apr 12
26. API Email to ARZZCC, 13 May 12
27. Contract H92237-12-C-0059
28. LAMS Photo
29. Contract H92237-12-C-0059 Notice to Proceed
30. API Quotation #72821621-E, 22 Dec 11
31. ARCSC Wire Transfers, 28 Dec 11 & 30 Jan 12
32. ARCSC Emails to SIGAR, Apr 12
33. SIGAR Show Cause Letter, 31 May 12
34. Investigative Report, 1 Jun 12, with attachments
35. API Wire Transfers to ARZZCC
36. ARZZCC Invoice to API, 13 Jun 12
37. Naseri Email, 19 Jun 12, and API Response
38. API Response to Show Cause Letter, 25 Jun 12
39. "Hurricane Irene Hammers the NE," Weather Channel
40. Investigative Report, 10 Aug 12
41. SIGAR Letter to API, 3 Jul 12
42. API Email to SIGAR, 9 Jul 12
43. CJSOTF-A Email to SIGAR, 4 Aug 12
44. Crabtree Letter to API, 20 Jun 12
45. SIGAR Email to API, 25 Jul 12
46. API Email to SIGAR, 6 Aug 12
47. ARCSC Email to SIGAR, 9 Aug 12
48. ARCSC v. API Complaint, 11 May 12
49. "New Jersey Assemblyman Charged with Writing Bad Checks," New York Times, 3 Aug 12

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50. "New Jersey Assemblyman Robert Schroeder on Writing Bad Checks: I Made a Mistake," NorthJersey.com, 3 Aug 12

51. Fred's Studio Tents v. API, Notice of Default Judgment and Supporting Documents

52. 18 U.S.C. § 287

53. Article 14(1), Penal Code of Afghanistan

54. *Agreement on Provisional Arrangements in Afghanistan Pending the Re-Establishment of Permanent Government Institutions*, UN Security Council Document S/2001/1154, 5 Dec 01

55. Article 466(1), Penal Code of Afghanistan

56. Notice of Suspension, 18 Sep 12

57. Respondents written submission, 5 Nov 12

58. Respondents written submission, 17 Oct 12

59. Termination of Suspension of James Cipolla, 28 Nov 12

60. Proposed Debarment of Robert Schroeder, API, HGL, 28 Nov 12

61. Written submissions and responses submitted by Respondents, 5-11 Dec 12